

**Application No.:** 10/782,266  
**Filing Date:** February 18, 2004

### **REMARKS**

The following remarks are responsive to the Office Action mailed July 18, 2008 (hereinafter, "Office Action"). In the Office Action, Claims 91-95, 113-122, and 127-142 were rejected over the prior art as discussed below. In this Amendment, Claims 91, 92, 113, 119, 122, 127, 128, 130, and 131 have been amended. Dependent Claims 143-149 have been added and are fully supported by the application as filed. Applicant submits that the newly added dependent Claims 143-149 are allowable for at least the same reasons as set forth below for the claim or claims from which they depend, and because they each recite further patentable distinctions over the cited references.

Claims 96-112 and 123-126 were previously canceled, and Claim 142 is presently canceled. Therefore, Claims 91-95, 113-122, 127-141, and newly added claims 143-149 are pending for further consideration.

#### Personal Interview

Applicant thanks Examiner Sonnett for the courteous and helpful personal interview conducted on August 14, 2008 (summarized above).

#### Claim Rejections

While Applicant respectfully disagrees with the Examiner's rejections, Applicant has amended one or more claims to address the Examiner's comments to expedite allowance. Applicant is not acquiescing to the rejections and reserves the right to pursue in a related application claims at least as broad as the amended claims prior to the amendments set forth herein. Applicant respectfully requests the Examiner to reconsider the above-captioned application in view of the foregoing amendments and the following comments.

#### Rejections Under 35 U.S.C. § 112

Claim 142, which was rejected under 35 U.S.C. § 112, second paragraph, has been canceled herein. Therefore, this amendment is moot.

Rejections Under 35 U.S.C. § 102

Claims 91-95, 113, 118, 130-139, 141, and 142 were rejected in the Office Action under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,643,314 issued to Carpenter et al. (Carpenter). Applicant disagrees with this rejection, but has made amendments set forth herein to expedite allowance. None of Claims 91-95, 113, 118, 130-139, and 141 (noting that Claim 142 has been canceled) is anticipated by Carpenter under 35 U.S.C. 102(e) because Carpenter does not show every element of each claim arranged as in each claim. *See* MPEP §2131. Moreover, as discussed below, Carpenter also does not render obvious any of these claims.

With reference to Claim 91, as discussed during the interview, Applicant submits that Carpenter does not disclose or suggest, inter alia, providing an expandable device with a plurality of cells, at least one cell capable of being expanded between a stable contracted state and a stable expanded state and wherein each cell comprises a generally longitudinal wave-like first member and a generally longitudinal wave-like second member, the first and second members being generally in phase when the cell is in an unexpanded state and generally out of phase when the cell is in an expanded state.

With reference to Claim 113, as discussed during the interview, Applicant submits without limitation that Carpenter does not disclose or suggest, inter alia, a method of stabilizing an unsupported section of a passageway, comprising: providing an expandable device having one or more cells, each of the cells comprising first and second arcuate members; expanding the one or more cells to a transition point defining a geometry of the one or more cells at which no additional force is necessary to further expand the one or more cells; and permitting the one or more cells to continue to expand beyond the transition point without the application of additional force; wherein at least a portion of the first arcuate member is generally concave before the one or more cells has been expanded and at least a portion the first arcuate member is generally convex after the one or more cells has been expanded beyond the transition point.

With reference to Claim 130, as discussed during the interview, Applicant submits without limitation that Carpenter does not disclose or suggest, inter alia, a method of expanding an expandable device in a passage way, comprising: providing an expandable device having at least one cell, the at least one cell comprising first and second arcuate members, the second arcuate members being more pliable than the first arcuate members; expanding the at least one

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cell to a transition point defining a geometry of the at least one cell beyond which no additional force is needed to further expand the least one cell, at least a portion of the at least one cell moving between a generally concave state and a generally convex state at the transition point; and permitting the at least one cell to continue to expand beyond the transition point without the application of additional force.

Applicant also submits that Claims 92-95, 118, 131-139, and 141 are not anticipated by Carpenter for at least the same reasons as set forth above for the claim or claims from which they depend, and because they each recite further patentable distinctions over Carpenter.

Accordingly, Applicant respectfully requests the Examiner to reconsider and withdraw the rejection of Claims 91-95, 113, 118, 130-139, and 141 in view of the amendments and clarifications set forth above and to pass these claims to allowance.

#### Rejections Under 35 U.S.C. § 103

In the Office Action under 35 U.S.C. § 103(a), Claims 114-117, 119-122, and 127-129 were rejected as being obvious in view of Carpenter and Claim 140 was rejected as being obvious in view of Carpenter in combination with U.S. Patent No. 4,886,062 issued to Wiktor (Wiktor).

With reference to Claim 119, as discussed during the interview, Applicant submits without limitation that Carpenter does not disclose, suggest, or render obvious, inter alia, a method for installing a liner within a tubular passageway, comprising: providing an expandable device with a plurality of bistable cells, each of the bistable cells comprising first and second arcuate members, each cell capable of assuming a stable collapsed configuration in which the first and second arcuate members are in phase and a stable expanded configuration in which the first and second arcuate members are out of phase.

With reference to Claim 122, as discussed during the interview, Applicant submits without limitation that Carpenter does not disclose, suggest, or render obvious, inter alia, a method of isolating a portion of a passageway, comprising: inserting within the passageway an expandable multistable device formed by one or more of cells that permit the expandable device to be selectively actuated between a contracted state and at least one expanded state, each of the cells comprising first and second wave-like portions; expanding the one or more cells from a

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stable collapsed configuration in which the first and second wave-like portions are in phase to a stable expanded configuration, in which the first and second wave-like portions are out of phase, wherein there are no stable configurations between the stable collapsed configuration and the stable expanded configuration; and isolating a portion of the passageway with the expandable device.

Applicant also submits that Claims 114-117, 120-121, and 127-129 are not anticipated by Carpenter for at least the same reasons as set forth above for the claim or claims from which they depend, and because they each recite further patentable distinctions over Carpenter.

Claim 140 is allowable over Carpenter in view of Wiktor at least because Wiktor does not overcome Carpenter's failure to disclose or suggest all of the limitations set forth in Claim 119, from which Claim 140 depends. Claim 119 has been discussed above. Claim 140 is allowable because of the limitations set forth therein, combined with the limitations of Claim 140, would not have been obvious to one of ordinary skill in the art in view of Carpenter and Wiktor at the time of the inventions.

Accordingly, Applicant respectfully requests the Examiner to reconsider and withdraw the rejection of Claims 114-117, 119-122, 127-129, and 140 in view of the amendments and clarifications listed above and to pass these claims to allowance.

#### No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that the Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

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**CONCLUSION**

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, issuance of a Notice of Allowance is most earnestly solicited.

Applicant respectfully traverses each of the Examiner's rejections and each of the Examiner's assertions regarding what the prior art shows or teaches. Although amendments have been made, no acquiescence or estoppel is or should be implied thereby. Any arguments in support of patentability and based on a portion of a claim should not be taken as founding patentability solely on the portion in question; rather, it is the combination of features or acts recited in a claim which distinguishes it over the prior art.


The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicant's attorney, Andrew M. Douglas at (949) 721-7623 to resolve such issue(s) promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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